

REMARKS/ARGUMENTS

Claims 1 – 25 are pending in the application.

Figure 3, paragraph [0036] and claims 1, 8, 11, 18, 21 and 23-25 have been amended. Moreover, formal drawings have been submitted to address the draftsperson's objections.

As an initial matter, it is expressly noted that the amendments to claim 1 are merely intended as cosmetic changes in order to rearrange a portion of the text and to clarify the operational relationship between the cam follower and the valve lever. Thus, claim 1 has not been narrowed, as the original claim 1 distinguishes from the cited prior art for the reasons discussed below.

Further, allowed claims 23-25 have been amended to delete the word "eccentric," which is not believed to be essential to the inventions of claims 23-25.

Claims 1-25 remain pending in this application and reconsideration is respectfully requested based upon the following comments.

Turning to the Office Action mailed March 23, 2004, the drawings were objected to as failing to include reference numeral 33. Figure 3 has been amended to include reference numeral 33, which Figure shows the apertures described at page 17, paragraph [0049] of the specification.

In paragraph 2, the disclosure was objected to. Paragraph [0036] has been amended herein in order to introduce the requested correction.

In paragraph 3, claim 21 was objected to as lacking antecedent basis for the features "the first mounting portion" and "the second mounting portion." Appropriate clarifications have been made. Further, because claim 11 is similar to claim 21, claim 11 has been amended in a similar manner.

In paragraph 5, claims 1 and 13 were rejected under 35 USC 102(e) as being anticipated by Hendriksma (U.S. Patent No. 6,591,798). Applicant respectfully traverses this rejection, because it is believed that Hendriksma does not teach “a locking device arranged and constructed to releasably lock the cam follower in the respective first and second rotational positions.” To the contrary, Hendriksma only teaches to lock the cam follower 32 in the “high-lift mode.” See e.g., col. 6, line 49-51. As noted at col. 5, lines 45-47, when the primary latching pin 44 is disengaged from the high-lift follower 32, the valve actuator operates in the “low-lift mode.”

Furthermore, as noted at col. 3, lines 14-16, the slidable primary latching pin 44 is only described as being capable of “engaging and disengaging the high-lift follower.” The latching pin 44 is never described, e.g., as engaging or locking the low-lift follower during the low-lift mode. Instead, at col. 6, line 67 to col. 7, line 2, Hendriksma teaches “to shift back to low-lift (default) mode, the solenoid may be de-energized at any point.”

Thus, because Hendriksma refers to the low-lift mode as the default mode, no active locking takes place during the low-lift mode. Furthermore, according to Hendriksma's design, the latching pin 44 is not capable of locking the cam follower 32 during the low-lift mode. Consequently, a skilled person would recognize that, according to Hendriksma's design, the cam follower 32 is not intended to be locked during the low-lift mode.

Instead, during the low-lift mode of Hendriksma's valve actuator, the cam follower 32 is free to pivot about the pin 34, because latching pin 44 does not lock the cam follower 32 during the low-lift mode. Thus, the cam follower 32 is only

capable of being locked in a single rotational position with respect to the valve lever 24.

In addition or in the alternative, it is further noted that the cam follower 38 is not capable of assuming a first and second rotational position with respect to the valve lever 24, because the cam follower 38 is integral with the valve lever 24.

In conclusion, because the latching pin 44 of Hendriksma is not arranged and constructed to lock the cam follower 32, 38 in a second rotational position with respect to the valve lever 24, at least one feature of claim 1 is not taught by Hendriksma and Hendriksma can not anticipate claim 1 (see also the last paragraph of MPEP section 2131).

It is, therefore, respectfully requested to withdraw the 102(e) rejection of claims 1 and 13 based upon Hendriksma.

It is further noted that substantial modifications of the Hendriksma valve actuator would be necessary to achieve the invention of claim 1, which modifications could not have been undertaken without inventive activity. Moreover, Hendriksma does not suggest to lock the cam follower 32 during the low-lift mode and no particular purpose would be served by locking the cam follower 32 during the low-lift mode in Hendriksma's design, because cam follower 38 is the active cam during the low-lift mode. Therefore, it is also believed that a skilled person would not have been motivated to modify Hendriksma's design so as to lock the cam follower 38 in a second rotational position relative to the valve lever 24 and thus, claim 1 is non-obvious over Hendriksma.

For all the foregoing reasons, the application is believed to be in condition for allowance and an early Notice of Allowance is hereby solicited. However, should the

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Examiner have any further comments or suggestions, the undersigned would very much appreciate a phone call in order to discuss any outstanding issues and to expedite placement of the application into condition for allowance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert W. Becker", with a long horizontal flourish extending to the right.

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Attachments